

UNITED STATES DISTRICT COURT

DISTRICT OF MASSACHUSETTS

FILED  
CLERK OF COURT  
JUL 13 2005  
U.S. DISTRICT COURT  
DISTRICT OF MASSACHUSETTS  
BOSTON

CAROL DIPIETRO,  
Plaintiff

#05-11074-NG

v.

PLYMOUTH COUNTY  
SHERIFF'S DEPARTMENT,  
Defendant

DEFENDANT'S ANSWER TO PLAINTIFF'S COMPLAINT

*NOW COMES* the Defendant, Plymouth County Sheriff's Department, and answers the Plaintiff's Complaint as follows:

PARTIES

1. The Defendant admits the allegations contained in Paragraph #1 of the Plaintiff's Complaint.
2. The Defendant admits the allegations contained in Paragraph #2 of the Plaintiff's Complaint.

FACTUAL ALLEGATIONS

3. The Defendant admits the allegations contained in Paragraph #3 of the Plaintiff's Complaint.
4. The Defendant admits the allegations contained in Paragraph #4 of the Plaintiff's Complaint.

5. The Defendant denies the allegations contained in Paragraph #5 of the Plaintiff's Complaint.
6. The Defendant denies the allegations contained in Paragraph #6 of the Plaintiff's Complaint.
7. The Defendant admits the allegations contained in Paragraph #7 of the Plaintiff's Complaint.
8. The Defendant denies the allegations contained in Paragraph #8 of the Plaintiff's Complaint.
9. The Defendant admits the allegations contained in Paragraph #9 as to a meeting was held on November 1, 2002 in the medical department. Defendant is unaware of the reasons why the meeting was held.
10. The Defendant is without sufficient knowledge to admit or deny the allegations contained in Paragraph #10 of the Plaintiff's Complaint.
11. The Defendant denies the allegations contained in Paragraph #11 of the Plaintiff's Complaint.
12. The Defendant denies the allegations contained in Paragraph #12 of the Plaintiff's Complaint.
13. The Defendant denies the allegations contained in Paragraph #13 of the Plaintiff's Complaint.
14. The Defendant denies the allegation contained in Paragraph #14 of the Plaintiff's Complaint.

JURISDICTION

15. The Defendant denies the allegations contained in Paragraph #15 of the Plaintiff's Complaint.

16. The Defendant admits the allegations contained in Paragraph #16 of the Plaintiff's Complaint.

COUNT I – TITLE VII – SEXUAL HARASSMENT

17. The Defendant denies the allegations contained in Paragraph #17 of the Plaintiff's Complaint.

18. The Defendant denies the allegations contained in Paragraph #18 of the Plaintiff's Complaint.

19. The Defendant denies the allegations contained in Paragraph #19 of the Plaintiff's Complaint.

20. The Defendant denies the allegations contained in Paragraph #20 of the Plaintiff's Complaint.

21. The Defendant denies the allegations contained in Paragraph #21 of the Plaintiff's Complaint.

COUNT II.

SEXUAL HARASSMENT – G.L. C. 151B

22. The Defendant realleges and reincorporates answers to Paragraphs 1 through 21 above.

23. The Defendant denies the allegations contained in Paragraph #23 of the Plaintiff's Complaint.

24. The Defendant denies the allegations contained in Paragraph #24 of the Plaintiff's Complaint.

AFFIRMATIVE DEFENSES

***FIRST DEFENSE***

The Complaint fails to state a claim upon which relief can be granted.

***SECOND DEFENSE***

Plaintiff's recovery is barred or subject to diminution pursuant to comparative negligence principles as set forth in G.L. c. 231, sec. 85.

***THIRD DEFENSE***

Plaintiff's claim is barred by failure to comply with the notice presentment provisions of G.L. c. 258, sec. 4.

***FOURTH DEFENSE***

Any injury or damages suffered by the plaintiff, to the extent actually incurred, were caused by reason of the plaintiff's own wrongful acts, reckless misconduct or negligence.

***FIFTH DEFENSE***

The defendant is immune from liability pursuant to G.L. c. 258, sec. 10.

***SIXTH DEFENSE***

The defendant says that this action consists of a claim based upon the performance or failure to perform a discretionary function or duty on the part of a public employer or public employee acting within the scope of office or employment, and, therefore, the plaintiff cannot recover in this action.

***SEVENTH DEFENSE***

The defendant's actions, to the extent they occurred as alleged, are immune from suit as they were discretionary functions.

***EIGHTH DEFENSE***

The plaintiff is barred by G.L. c. 258, sec. 4 from bringing such a claim.

***NINTH DEFENSE***

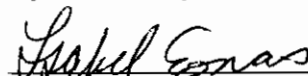
The Plaintiff failed to exhaust all administrative remedies pursuant to M.G.L.A., c. 127 § 38F.

***TENTH DEFENSE***

Plaintiff's claims are barred by the applicable statute of limitations.

DEFENDANT CLAIMS A TRIAL BY JURY ON ALL COUNTS.

Respectfully submitted  
Defendant, Plymouth County Sheriff's Dept.  
By its attorney:



Isabel Eonas, Deputy General Counsel  
Plymouth County Sheriff's Dept.  
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Plymouth, MA 02360  
508-830-6287  
BBO #639870

DATED: June 21, 2005

**CERTIFICATE OF SERVICE**

I, Isabel Eonas, certify that on this 21st day of June, 2005 I served the within Defendant's Answer to Plaintiff's Complaint upon Plaintiff by mailing, postage prepaid to:

Attorney Daniel W. Rice  
Glynn, Landry, Harrington & Rice, LLP  
10 Forbes Road  
Braintree, MA 02184

Signed under the pains and penalties of perjury.



Isabel Eonas, Deputy General Counsel